IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.4298 OF 2006

In

APPEAL NO.874 OF 2006

In

NOTICE OF MOTION NO.153 OF 2006

In

NOTICE NO.N/161 OF 2006

Kishor K. Mehta : Appellant

(Orig.Judgment Debtor)

V/s.

A1 Barr Finance House Ltd.

(formerly known as Albaraka House

Limited : Respondent

(Orig.Judgment Creditor)

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Mr.Rohit Kapadia, senior counsel, with Mr.V.R.Dhond i/b. M/s.T.N.Tripathi & Co., for the appellant.

Mr.Zal Andhyarujina i/b. M/s.Dave & Girish & Co., for the respondent.

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CORAM : R.M.LODHA & S.A.BOBDE,JJ.

DATE : DECEMBER 13, 2006.

P.C.

We heard the senior counsel and the counsel for the parties.

2. On 11.12.2006, we admitted the appeal. Today, the matter has come up for consideration of the Notice of Motion taken out by the appellant praying therein that the operation and execution of the impugned order dated 17.10.2006 be stayed.

3. Having taken into consideration all relevant facts and circumstances and the aspects of the case, we are satisfied that the following order shall meet the ends of justice, to remain operative until the disposal of the appeal:-

(i) The appellant shall deposit sum of Rs.25 lakhs in this Court in three instalments of Rs.10 lakhs, Rs.10 lakhs and Rs.5 lakhs. The first instalment shall be deposited before 15.1.2007. The second and third instalments shall be deposited on or before 15.2.2007 and 15.3.2007, respectively.

(ii) Upon compliance, the execution and operation of the impugned order dated 17.10.2006 shall remain stayed.

(iii) If the appeal is not heard by the end of March 2007, liberty is granted to the respondent to apply for enhancement of deposit.

4. Notice of Motion stands disposed of.

R.M. LODHA, J.

S.A. BOBDE, J.